

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## How to Appeal the Granting, Conditioning or Denial of Shoreline Permits

Updated July 14, 2005

The Washington State Shorelines Hearings Board hears all appeals of the granting or denial of a shoreline development permit or its conditions.

### When to File an Appeal

#### 1. Shoreline Substantial Development Permit

If you want to appeal a Department of Planning and Development (DPD) decision on a shoreline substantial development permit to the Shorelines Hearings Board, you must do so **within 21 days of the date DPD's decision is received by the Washington State Department of Ecology (DOE).**

#### 2. Shoreline Variance or Conditional Use

If you want to appeal a DPD recommendation on a shoreline variance or conditional use to the Shorelines Hearings Board, you must do so **within 21 days of the date a decision on the variance or conditional use is made by DOE.**

The failure to observe the filing deadlines can result in dismissal of an appeal. Please refer to Revised Code of Washington (RCW) 90.58.180 for specific appeal requirements (see section titled "Contents Required for an Appeal" below). A copy of the complete RCW is available at the Main Branch of the Seattle Public Library and online at [www.ecy.wa.gov/laws-rules/ecyrcw.html](http://www.ecy.wa.gov/laws-rules/ecyrcw.html).

### Where to File an Appeal

Within the specified 21 days, you must send the original and one copy of the appeal to:

- 1. Environmental Hearings Office**  
(Shorelines Hearings Board)  
4224 Sixth Avenue SE #2, Rowe Six  
P.O. Box 40903  
Lacey, WA 98504-0903

Send one copy each to the following:

- 2. Washington State Department of Ecology**  
Shoreline Appeals Coordinator  
P.O. Box 47600  
Olympia, WA 98504-7600
- 3. State Attorney General**  
Ecology Division  
2425 Bristol Court SW  
P.O. Box 40117  
Olympia, WA 98504-0117
- 4. The City of Seattle City Attorney's Office**  
Seattle City Hall  
600 4th Ave, Floor 4  
P.O. Box 94769  
Seattle, WA 98124-4769

- 5. The permit applicant** (if you are not the applicant)

### Contents Required for an Appeal

Instructions on how to appeal the granting, conditioning or denial of shoreline permits are contained in RCW 90.58.180, reprinted below in italics. This reprinting is as of June 13, 2005; to check for updates, please visit the Washington State Legislature's website at [www.leg.wa.gov/RCW/index.cfm](http://www.leg.wa.gov/RCW/index.cfm).

#### RCW 90.58.180

*Appeals from granting, denying, or rescinding permits — Board to act — Local government appeals to board — Grounds for declaring rule, regulation, or guideline invalid — Appeals to court.*

*(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state*



pursuant to RCW 90.58.140 may, except as otherwise provided in chapter 43.21L RCW, seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of filing as defined in RCW 90.58.140(6).

Within seven days of the filing of any petition for review with the board as provided in this section pertaining to a final decision of a local government, the petitioner shall serve copies of the petition on the department, the office of the attorney general, and the local government. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within fifteen days from the date of the receipt by the department or the attorney general of a copy of the petition for review filed pursuant to this section. The shorelines hearings board shall schedule review proceedings on the petition for review without regard as to whether the period for the department or the attorney general to intervene has or has not expired.

- (2) The department or the attorney general may obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the shorelines hearings board and the appropriate local government within twenty-one days from the date the final decision was filed as provided in RCW 90.58.140(6).
- (3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings. Judicial review of such proceedings of the shorelines hearings board is governed by chapter 34.05 RCW. The board shall issue its decision on the appeal authorized under subsections (1) and (2) of this section within one hundred eighty days after the date the petition is filed with the board or a petition to intervene is filed by the department or the attorney general, whichever is later. The time period may be extended by the board for a period of thirty days upon a showing of good cause or may be waived by the parties.
- (4) Any person may appeal any rules, regulations, or guidelines adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.
- (5) The board shall find the rule, regulation, or guideline to be valid and enter a final decision to that effect

unless it determines that the rule, regulation, or guideline:

- (a) Is clearly erroneous in light of the policy of this chapter; or
  - (b) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or
  - (c) Is arbitrary and capricious; or
  - (d) Was developed without fully considering and evaluating all material submitted to the department during public review and comment; or
  - (e) Was not adopted in accordance with required procedures.
- (6) If the board makes a determination under subsection (5)(a) through (e) of this section, it shall enter a final decision declaring the rule, regulation, or guideline invalid, remanding the rule, regulation, or guideline to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government and any other interested party, a new rule, regulation, or guideline consistent with the board's decision.
- (7) A decision of the board on the validity of a rule, regulation, or guideline shall be subject to review in superior court, if authorized pursuant to chapter 34.05 RCW. A petition for review of the decision of the shorelines hearings board on a rule, regulation, or guideline shall be filed within thirty days after the date of final decision by the shorelines hearings board.

[2003 c 393 § 22; 1997 c 199 § 1; 1995 c 347 § 310; 1994 c 253 § 3; 1989 c 175 § 183; 1986 c 292 § 2; 1975-'76 2nd ex.s. c 51 § 2; 1975 1st ex.s. c 182 § 4; 1973 1st ex.s. c 203 § 2; 1971 ex.s. c 286 § 18.]

#### NOTES:

**Implementation — Effective date — 2003 c 393:** See RCW 43.21L.900 and 43.21L.901.

**Finding — Severability — Part headings and table of contents not law — 1995 c 347:** See notes following RCW 36.70A.470.

**Effective date — 1989 c 175:** See note following RCW 34.05.010.

**Severability — 1986 c 292:** See note following RCW 90.58.030.

Appeal under this chapter also subject of appeal under state environmental policy act: RCW 43.21C.075.

## Additional Information

A copy of both the application for the shoreline development permit that was submitted to the City and the City's final decision on the permit is obtainable from DPD's Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Avenue, 206-684-8467.

A copy of the Department of Ecology (DOE) decision, if any, is obtainable from DOE at (360) 407-6528.

For additional information, contact the Washington State Shorelines Hearings Board, (360) 459-6327, or the Shoreline Appeals Coordinator for the Department of Ecology at (360) 407-6528.